



Free Appropriate Public Education (FAPE) Special education and related services

A recent report issued to the State of Missouri by the Office of Special Education Programs (OSEP), found that students were not always receiving all of the special education and related services that were required to meet their unique needs. Specifically, OSEP determined that certain related services such as psychological counseling and assistive technology were not being written into students' Individualized Education Programs (IEPs) and/or were not being provided without cost to the parent. It also was found that medical services for diagnosis or evaluation (such as hearing and vision evaluations) were not always provided without cost to the parent.

In response to OSEP's report, the Special Education School Improvement section has prepared this technical assistance bulletin. The purpose of this bulletin is to provide guidance and direction to Local Education Agencies (LEAs) and IEP teams regarding OSEP's findings and what their responsibilities are in providing appropriate special education and related services to students with disabilities.

What do the regulations say?

IDEA, Title 34 CFR, Sec. 300.347

The IEP for each child must include:

(a)(3) A statement of the special education and related services and

supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child.

(a)(6) The projected date for the beginning of the services and modifications described in paragraph (a)(3) of this section, and the anticipated frequency, location, and duration of those services and modifications.

IDEA, Title 34 CFR, Sec. 300.24

Special education means specially designed instruction provided, **at no cost to the parents**, to meet the unique needs of a child with a disability.

IDEA, Title 34 CFR, Sec. 300.22

Related services means transportation and such developmental, corrective and other supportive services that are required to assist a child with a disability to **benefit from special education** and includes: speech-language pathology and audiology services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. The term includes school health services, social work services in schools, and parent counseling and training.

This list of related services is not exhaustive and may include other developmental, corrective, or supportive services (such as artistic and cultural programs, art, music and dance therapy, travel training, nutrition services and independent living services), if they are required to assist a child with a disability to benefit from special education in order for the child to receive a Free Appropriate Public Education (FAPE).

What is a district's obligation for providing special education and related services?

For each identified student with a disability, the district must develop an IEP which ensures that the student will receive a Free Appropriate Public Education (FAPE). The term "free appropriate public education" means special education and related services that (a) have been provided at public expense, under public supervision and direction and **without charge**; (b) meet the standards of the state educational agency; (c) include an appropriate preschool, elementary, or secondary school program in the state involved; and (d) are provided in conformity with the individualized education program required under section 614(d). (See the Technical Assistance Bulletin, *Issues in Education*, "Individualized Education Programs," April, 1998.)

Not all related services will be required for each individual child. Some children may require a number of related services, some will require no related services at all. In some cases, areas defined under “related services” should be listed as a “special education service” if it is the only service necessary for that child. Examples of this are speech-language pathology, vocational education and transition services.

In Missouri, it is presumed that most children with disabilities receive the same transportation services as nondisabled children. Thus, transportation is not required to be written into the IEP as long as the student is receiving the **same** transportation s/he would receive if s/he were not under the IEP.

In some cases, students with disabilities may require separate transportation or transportation with accommodations or modifications. Special transportation also may be required for a student with disabilities to attend extracurricular and/or extended school year programs. In either of these cases, transportation must be included in the IEP as a related service. For some children with disabilities, integrated transportation may be achieved by providing needed accommodations such as lifts and other equipment adaptations on regular school transportation vehicles.

How are decisions about related services made?

The IEP team has the responsibility to make decisions about the special education and related services required to meet the needs of each individual child. The decision about what services, the amount of services and the setting of services needed to assist in the implementation of the IEP is based on a variety of factors. The IEP team must first identify the student’s present level of educational performance and the goals and objectives/benchmarks needed to

meet the student’s educational needs. Once the needs, goals and objectives/benchmarks are established, the IEP team decides what special education services are needed in order for the child to meet the annual identified goals. The team also determines the amount of time needed for each service and the most appropriate setting for the delivery of services.

In the case of related services, the team must determine if there are any specialized services which the student needs in order to access or benefit from their special education services. Making this determination is an issue of FAPE and is based upon information gathered during the student’s special education evaluation and the goals and objectives on the IEP. Unlike special education services however, there are no specific eligibility requirements that a child must meet in order to be eligible for related services. The only exception here would be in the case of related services in which an evaluation would be necessary to determine need (e.g., speech-language therapy, occupational therapy, physical therapy). Also in the case of physical therapy, a prescription is required from a physician prior to the implementation of physical therapy services.

If, based upon the child’s evaluation information and present level of educational performance and goals/objectives/benchmarks identified in the IEP, it is determined by the IEP team that the student requires any given related service in order to access or benefit from his/her special education services, **it is the responsibility of the Local Education Agency (LEA) to document the service(s) on the child’s IEP and provide the related service(s) at no cost to the parent/guardian.** The following **must not** be a determinant factor in the team’s discussion of or decision about the provision of a related service:

- cost of the service
- availability of properly certificated staff

Finally, the district must not have policies, practices or procedures which allow for IEP team decisions concerning special education and related services to be overridden at a higher administrative level.

Use of private physicians, private insurance and other funding sources for related services

In some cases, parents would prefer to use their family physician, rather than one identified by the school, to determine a child’s medically related disability (such as a vision or hearing evaluation). This is allowable as long as the evaluation has been offered by the LEA but the parent chooses to use their own physician. However, if the parent is unwilling or unable to schedule and pay for the medical evaluation, or if the evaluation is being delayed due to the parents lack of response, it is the responsibility of the district to obtain the necessary medical evaluation.

Additionally, it is allowable for school districts to seek voluntary and informed consent of the parents to access insurance benefits to pay for some areas of a special education evaluation or for related services. However, school districts may not compel parents to file a claim when this action would cause the parents to suffer a financial loss, including the payment of a deductible. (See Missouri Department of Elementary and Secondary Education, “Use of Insurance Proceeds,” July, 1991; and the Federal Department of Education Policy Interpretation, Use of Insurance Proceeds: 45 Federal Register 86390 dated December 30, 1980, effective March 30, 1981.)

Finally, Medicaid and other targeted funds may be available for certain medically necessary services. Contact the Division of Special Education concerning these funds.

Who can provide related services?

Related services might be provided by persons from varying professional backgrounds and with a variety of titles. For some areas of related services or under certain circumstances, an individual with a specific certification or licensure will be required to provide that service. For example, counseling services would need to be provided by school social workers, licensed professional counselors (LPC), school psychologists, guidance counselors or licensed psychologists or psychiatrists. Speech-language services would need to be provided by a licensed speech-language therapist or a state approved speech implementer.

In some cases, how a service is listed on the IEP will determine what the requirement is for the qualifications of the provider. For example, if "direct occupational therapy" services are listed on the IEP, then those services will have to be provided by a licensed occupational therapist (OT). However, if the services are not listed

as "direct," then those services could be implemented by other qualified personnel under the supervision of an OT such as a certified occupational therapy assistant (COTA).

In the case of orientation and mobility services, if those services are for a student with visual impairments, the services must be provided by a qualified orientation and mobility specialist. However, if the services are for a student with another disability, for example a student with mental retardation who needs instruction in moving around his/her building to be able to participate in his/her inclusive program, then that instruction could be provided by any number of individuals.

If an IEP team is uncertain about the qualifications required by the individual to implement any given related service for a student or how related services should be documented on the IEP to clearly communicate how the service will be provided, they should contact their Area Supervisor of Special Education for guidance.

Resources

Some resources available to IEP teams:

Missouri Comprehensive Guidance Manual. (1998). Missouri Department of Elementary and Secondary Education. Order #30-2065-I from the Instructional Materials Laboratory at (800) 669-2465.

Navigating the River of Transition training and resources. Contact the Center for Innovations in Special Education at (573) 884-7275 or (800) 976-CISE (MO only).

Porter, S., Haynie, M., Bierly, T., Caldwell, T. H., & Palfrey, J. S. (1997). *Children and youth assisted by medical technology in educational settings* (2nd ed). Baltimore, MD: Brookes Publishing Co., Inc. Borrow loan package 1918 from the Center for Innovations in Special Education, (573) 884-7275 or (800) 976-CISE (MO only).

Tools for Tomorrow: Decision Making in the IEP course. Contact the Center for Innovations in Special Education at (573) 884-7275 or (800) 976-CISE (MO only).

Related services at-a-glance

(This page can be used as a "handy reference" for IEP teams when considering related services for students with disabilities.)

⌘ *Related services* means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education.

⌘ *Related services* may not be provided as a sole service, but may only be provided in conjunction with special education services except in the case of those services which are being provided as the primary special education service such as speech-language, transition, or vocational.

⌘ Some students may require no related services at all; some students

may require a number of related services.

⌘ Students do not have to meet a separate set of eligibility requirements for *related services*, but the IEP team does need to determine that a related service is necessary in order for a student to **access or benefit from** his/her special education services.

⌘ Some related services do require that an assessment in that area be done to determine need (for example, occupational therapy, physical therapy, speech-language).

⌘ For physical therapy, a prescription from a physician is required prior

to the implementation of the physical therapy services.

⌘ Related services **must** be listed on the IEP and must be provided **without cost** to the parent. Transportation is only listed on the IEP as a related service whenever there are circumstances which require special transportation or when there is a need for accommodations or modifications to regular transportation.

⌘ Direct services are not assumed. If not listed on the IEP as direct services, then the services may be provided by a variety of individuals under the supervision of a qualified provider.

Related services defined

Audiology:

- ⌘ Identification of children with hearing loss;
- ⌘ determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;
- ⌘ provision of habilitative activities, such as language habilitation, auditory training, speech reading (lip reading), hearing evaluation, and speech conservation;
- ⌘ creation and administration of programs for prevention of hearing loss;
- ⌘ counseling and guidance of pupils, parents, and teachers regarding hearing loss; and
- ⌘ determination of the child's need for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.

Counseling services: Services provided by qualified social workers, psychologists, guidance counselors or other qualified personnel.

Early identification and assessment of disabilities in children:

The implementation of a formal plan for identifying a disability as early as possible in a child's life.

Medical services: Services provided by a licensed physician to determine a child's medically related disability that results in the child's need for special education and related services.

Occupational therapy:

- ⌘ Improving, developing or restoring functions impaired or lost through illness, injury or deprivation;
- ⌘ improving ability to perform tasks for independent functioning if functions are impaired or lost; and
- ⌘ preventing, through early intervention, initial or further impairment or loss of function.

Orientation and mobility services: Services provided to blind or visually impaired students by **qualified personnel** to enable those students to attain systematic orientation to and safe movement within their

environments in school, home, and community. (Note: children with other disabilities may need to be taught the skills they need to navigate their environment (e.g., "travel training"); however, it is not required that an orientation and mobility specialist provide the services for these students.)

Parent counseling and training:

Assisting parents in understanding the special needs of their child and providing parents with information about child development.

Physical therapy: services provided by a qualified physical therapist.

Psychological services:

- ⌘ Administering psychological and educational tests and other assessment procedures;
- ⌘ interpreting assessment results;
- ⌘ obtaining, integrating, and interpreting information about child behavior and conditions relating to learning;
- ⌘ consulting with other staff members in planning school programs to meet the special needs of children as indicated by psychological tests, interviews and behavioral evaluations;
- ⌘ planning and managing a program of psychological services, including psychological counseling for children and parents; and
- ⌘ assisting in developing positive behavioral intervention strategies.

Recreation: Assessment of leisure functions; therapeutic recreation services; recreation programs in schools and community agencies; and leisure education.

Rehabilitation counseling: Services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence and integration in the workplace and community of the student with a disability. The term also includes vocational rehabilitation services provided to the student with disabilities by vocational rehabilitation programs funded under the

Rehabilitation Act of 1973, as amended.

School health services: Services provided by a qualified school nurse or other qualified person.

Social work services:

- ⌘ Preparing a social or developmental history on a child with a disability;
- ⌘ group and individual counseling with the child and family;
- ⌘ working with those problems in a child's living situation (home, school and community) that affect the child's adjustment in school;
- ⌘ mobilizing school and community resources to enable the child to learn as effectively as possible in his or her educational program; and
- ⌘ assisting in developing positive behavioral intervention strategies.

Speech-language pathology:

- ⌘ Identification of children with speech or language impairments;
- ⌘ diagnosis and appraisal of specific speech or language impairments;
- ⌘ referral for medical or other professional attention necessary for the habilitation or prevention of communicative impairments;
- ⌘ counseling and guidance of parents, children, and teachers regarding speech and language impairments.

Transportation: Travel to and from school and between school; travel in and around school buildings; and specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a child with a disability.

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